

House File 299 - Introduced

HOUSE FILE 299
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 51)

A BILL FOR

1 An Act relating to the unlawful possession of or entry upon
2 specified personal and public utility property, and
3 providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 714.27 Copper theft — ordinance
2 authorized — penalty.

3 1. The governing body of a political subdivision in which
4 copper theft has been reported may consider the adoption
5 of a copper theft ordinance requiring a salvage dealer to
6 maintain complete, accurate, and legible records in the English
7 language of all purchases and receipt of salvaged materials.
8 Such records shall be maintained and located at the place of
9 business of the salvage dealer for a minimum of one year from
10 the date of purchase or receipt by the salvage dealer.

11 2. The ordinance may require a salvage dealer to maintain
12 one or more of the following records:

13 a. The identity of the person from whom the salvaged
14 material was received or purchased, including name and address;
15 date of birth; Iowa driver's license number, Iowa nonoperator's
16 identification card number, or social security number in
17 conjunction with photo identification; sex, age, height, and
18 race.

19 b. The vehicle license plate number of the vehicle that
20 delivered the salvaged material to the salvage dealer, if
21 applicable.

22 c. The date and hour of the purchase or receipt of the
23 salvaged material.

24 d. A reasonably accurate inventory and description of the
25 salvaged material obtained.

26 e. The value of or amount paid for the salvaged material.

27 f. The weight or other measurable quantity of the salvaged
28 material.

29 g. From whom and at what time and place the salvaged
30 material was obtained by the person from whom it was purchased
31 or received, if known.

32 h. The date and manner of disposition by the salvage dealer
33 of the salvaged material by each article or in bulk.

34 i. The name and address of the person to whom the salvaged
35 material was sold or otherwise disposed of.

1 3. *a.* (1) In the event that a political subdivision issues
2 a license or permit to a salvage dealer for the operation of a
3 salvage business, the ordinance may provide for the suspension,
4 revocation, or nonrenewal of the license or permit in the event
5 the ordinance is violated by the salvage dealer. A suspension,
6 revocation, or nonrenewal shall not take effect without notice
7 delivered to the licensee or permittee in the regular mail
8 addressed to the licensee or permittee at the licensed premises
9 a minimum of ten days prior to a date set for hearing before
10 a magistrate or district associate judge. The notice shall
11 inform the licensee or permittee of the time, date, and place
12 of hearing, the purpose of the hearing, and shall set out
13 briefly the reasons for the hearing.

14 (2) A decision regarding whether to suspend or revoke
15 a license or permit, or deny its renewal, shall be at the
16 discretion of the magistrate or district associate judge,
17 based upon the circumstances surrounding the violation and its
18 severity.

19 (3) A licensee or permittee whose license or permit or
20 renewal has been revoked or denied because of a violation of
21 this section shall not be eligible for another such license
22 or permit for a period of one hundred eighty days after the
23 revocation or denial.

24 *b.* In the event a political subdivision does not issue a
25 license or permit to a salvage dealer for the operation of a
26 salvage business, the ordinance may provide for such penalty
27 provision as the governing body of the political subdivision
28 may deem appropriate.

29 Sec. 2. Section 716.7, subsection 2, Code 2011, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. *f.* Entering or remaining upon or in public
32 utility property without lawful authority or without the
33 consent of the public utility that owns, leases, or operates
34 the public utility property. This paragraph does not apply
35 to passage over public utility right-of-way by an unarmed

1 person if the person has not been notified or requested by
2 posted signage or other means to abstain from entering onto the
3 right-of-way or to vacate the right-of-way.

4 Sec. 3. Section 716.7, subsection 3, Code 2011, is amended
5 to read as follows:

6 3. The term "*trespass*" shall not mean entering upon the
7 property of another for the sole purpose of retrieving personal
8 property which has accidentally or inadvertently been thrown,
9 fallen, strayed, or blown onto the property of another,
10 provided that the person retrieving the property takes the most
11 direct and accessible route to and from the property to be
12 retrieved, quits the property as quickly as is possible, and
13 does not unduly interfere with the lawful use of the property.
14 This subsection does not apply to public utility property where
15 the person has been notified or requested by posted signage or
16 other means to abstain from entering.

17 Sec. 4. Section 716.7, Code 2011, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 5A. For purposes of this section,
20 "*public utility property*" means any land, dwelling, building,
21 conveyance, vehicle, or other temporary or permanent structure
22 owned, leased, or operated by a public utility and that is
23 completely enclosed by a physical barrier of any kind. For the
24 purposes of this section, a "*public utility*" is a public utility
25 as defined in section 476.1 or an electric transmission line as
26 provided in chapter 478.

27 Sec. 5. Section 716.7, subsection 6, Code 2011, is amended
28 by adding the following new paragraphs:

29 NEW PARAGRAPH. *d.* Representatives of the Iowa utilities
30 board, the federal energy regulatory commission, or the federal
31 communications commission who enter or remain upon or in public
32 utility property while engaged in the performance of official
33 duties.

34 NEW PARAGRAPH. *e.* Employees of a public utility who enter
35 or remain upon or in public utility property while acting in

1 the course of employment.

2 Sec. 6. Section 716.8, subsection 2, Code 2011, is amended
3 to read as follows:

4 2. Any person committing a trespass as defined in section
5 716.7, other than a trespass as defined in section 716.7,
6 subsection 2, paragraph "f", which results in injury to any
7 person or damage in an amount more than two hundred dollars
8 to anything, animate or inanimate, located thereon or therein
9 commits a serious misdemeanor.

10 Sec. 7. Section 716.8, Code 2011, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 6. Any person who commits a trespass as
13 defined in section 716.7, subsection 2, paragraph "f", commits a
14 class "D" felony.

15 EXPLANATION

16 This bill concerns the unlawful possession of or entry upon
17 specified personal and public utility property.

18 The bill creates an optional copper theft ordinance which
19 a political subdivision experiencing copper theft may adopt.
20 The ordinance would require a salvage dealer to maintain
21 complete, accurate, and legible records in the English
22 language of all purchases and receipt of salvaged materials.
23 The bill specifies a variety of different records which the
24 political subdivision may opt to include in the ordinance.
25 The bill provides that the records would be retained by the
26 dealer at the dealer's place of business for a minimum of
27 one year from the date of purchase or receipt. The bill
28 provides that if a political subdivision which adopts an
29 ordinance issues a license or permit to a salvage dealer,
30 the ordinance may provide for the suspension, revocation, or
31 nonrenewal of the license or permit in the event the ordinance
32 is violated. Notice and hearing provisions are specified,
33 and the determination as to whether to suspend or revoke
34 a license or permit, or deny its renewal, is left up to a
35 magistrate or district associate judge presiding over the

1 hearing. The bill states that if a political subdivision which
2 adopts an ordinance does not issue a license or permit to a
3 salvage dealer, the ordinance may provide for such penalties
4 as the governing body of the political subdivision may deem
5 appropriate.

6 The bill also incorporates trespassing onto public utility
7 property into the definition of "trespass" provided in Code
8 section 716.7. The bill defines "public utility property" as
9 any land, dwelling, building, conveyance, vehicle, or other
10 temporary or permanent structure owned, leased, or operated by
11 a public utility and that is completely enclosed by a physical
12 barrier of any kind. The bill defines a "public utility" to
13 include a public utility as defined in Code section 476.1,
14 which would include furnishing gas, electricity, communications
15 services, or water to the public for compensation, and an
16 electric transmission line as provided in Code chapter 478.

17 The bill provides that the term "trespass" includes entering
18 or remaining upon or in public utility property without lawful
19 authority or without the consent of the public utility. The
20 bill provides an exception for passage over a public utility
21 right-of-way by an unarmed person if the person has not been
22 notified or requested by posted signage or other means to
23 abstain from entering onto the right-of-way or to vacate the
24 right-of-way. Similar provisions are contained in Code section
25 716.7 with regard to railway property.

26 The bill provides that an exception to the term "trespass"
27 for entering upon the property of another for the sole purpose
28 of retrieving personal property under specified circumstances
29 shall not apply to public utility property where the person has
30 been notified or requested by posted signage or other means to
31 abstain from entering.

32 The bill adds the Iowa utilities board, the federal energy
33 regulatory commission, the federal communications commission,
34 and public utility employees, when acting in the course of
35 their official duties, to a list of entities and individuals to

1 whom the trespass provisions do not apply.

2 The bill provides that any person who violates the criminal
3 trespass provisions commits a class "D" felony. A class "D"
4 felony is punishable by confinement for no more than five years
5 and a fine of at least \$750 but not more than \$7,500.